

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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:
RUDEL CORPORATION, individually and : No. 3:16-cv-02229-AET-LHG
on behalf of all others similarly situated, :
: *Electronically Filed*
Plaintiff, :
: Hon. Anne E. Thompson
v. :
: HEARTLAND PAYMENT SYSTEMS, :
INC., :
Defendant. :
:
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**PLAINTIFF'S UNOPPOSED MOTION FOR CLARIFICATION OR
RECONSIDERATION OF THE PORTION OF THE COURT'S OPINION
(PAGE 2, N.1 AND PAGES 12-13) THAT CONFLICTS WITH THE
SETTLEMENT AGREEMENT'S REQUIREMENT THAT NOTICE AND
ADMINISTRATION FEES ARE PAID FROM THE SETTLEMENT FUND**

PLEASE TAKE NOTICE that Plaintiff Rudel Corporation, by and through its counsel, shall move this Court before the Honorable Anne E. Thompson, United States District Judge, on February 20, 2018, or as soon as counsel may be heard on this unopposed Motion, for an Order clarifying the portion of Court's Opinion, ECF No. 57 (Jan. 22, 2018) (page 2, n.1 and pages 12-13) that conflicts with the Order [ECF No. 58. ¶15] and the express terms of the Settlement Agreement [ECF No. 55-3, Exhibit 1, at ¶ 38] requiring that the Settlement Fund, not Class Counsel, pay the costs of notice and administration to effectuate the Settlement.

Plaintiff will show that in the Court's Opinion (page 2, n.1), the Court "assumes all future costs will be paid from the attorneys' fee awarded herein." However, when the Court issued its Opinion, it may not have been clear to the Court that the Settlement Agreement (ECF No. 55-3 ¶ 38) provides that the "Costs associated with notice to the Settlement Class and administration of the Settlement shall be paid out of the Settlement Fund." The Settlement Agreement explicitly provides that those notice and administration costs come from the Settlement Fund, not from Class Counsel. The Court's Order Granting Final Approval (ECF No. 58, ¶ 15) properly directs the parties to consummate the Settlement "according to the terms of the Settlement Agreement", which would mean that the costs of notice and administration are paid from the Settlement Fund. As a result, Plaintiff in this motion is requesting that the Court clarify or modify page2, footnote 1 and pages 12 to 13 of its Opinion to provide that the costs of notice and administration are to be paid from the Settlement Fund in accordance with the Settlement Agreement. Doing so would correct the conflict between the Opinion (p.2, n.1 and pages 12 to 13) on the one hand, and the Settlement Agreement (¶ 38) and Order (¶15) on the other.

PLEASE TAKE FURTHER NOTICE that this Unopposed Motion is supported by the accompanying Memorandum of Law, the Declaration of Stephen J. Fearon, Jr., and the exhibits attached thereto.

Defendant's counsel has informed Plaintiff's counsel that Defendant does not oppose the Motion. Plaintiff is submitting a proposed form of Order.

Dated: January 26, 2018

By: /s/ Raymond N. Barto

Raymond N. Barto

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